MT LEGISLATIVE HISTORY

Chapter 46 1991

Bill H 14 S _____ Original bill & hist. ___C

H. Committee on Business & Economic Development S. Committee on Business & Industry

Hearing Date(s)			Hearing Date(s)		
	Jan 10	✓C		Feb 12	✓C
	_____	___C		_____	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	Jan 10	✓C		Feb 12	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

12/27	INTRODUCED		
12/27	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
1/07	FIRST READING		
1/10	HEARING		
1/11	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/15	2ND READING PASSED	98	0
1/17	3RD READING PASSED	100	0
	TRANSMITTED TO SENATE		
1/18	REFERRED TO BUSINESS & INDUSTRY		
1/18	FIRST READING		
2/12	HEARING		
2/12	COMMITTEE REPORT—BILL CONCURRED		
2/14	2ND READING CONCURRED	50	0
2/15	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
2/19	SIGNED BY SPEAKER		
2/19	SIGNED BY PRESIDENT		
2/20	TRANSMITTED TO GOVERNOR		
2/25	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 46	EFFECTIVE DATE: 10/01/91	

HB 15 INTRODUCED BY CODY
EXPAND DEPARTMENT RULE REVIEWER REQUIREMENTS
BY REQUEST OF ADMINISTRATIVE CODE COMMITTEE

12/27	INTRODUCED		
12/27	REFERRED TO STATE ADMINISTRATION		
1/07	FIRST READING		
1/11	HEARING		
1/11	COMMITTEE REPORT—BILL PASSED		
1/11	PLACED ON CONSENT CALENDAR		
1/14	3RD READING PASSED	100	0
	TRANSMITTED TO SENATE		
1/15	FIRST READING		
1/15	REFERRED TO STATE ADMINISTRATION		
1/18	HEARING		
1/18	PLACED ON CONSENT CALENDAR		
1/22	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
1/25	SIGNED BY SPEAKER		
1/25	SIGNED BY PRESIDENT		
1/25	TRANSMITTED TO GOVERNOR		
1/30	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 3	EFFECTIVE DATE: 10/01/91	

HB 16 INTRODUCED BY DRISCOLL
REQUIRE IN-STATE PRINTING FOR ALL STATE WORK
IF RESPONSIBLE IN-STATE BIDDER

12/27	INTRODUCED		
12/27	REFERRED TO STATE ADMINISTRATION		
12/28	FISCAL NOTE REQUESTED		
1/06	FISCAL NOTE RECEIVED		
1/07	FIRST READING		
1/07	FISCAL NOTE PRINTED		
1/08	HEARING		
1/17	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/18	2ND READING PASSED AS AMENDED	90	7
1/21	3RD READING PASSED	89	7
	TRANSMITTED TO SENATE		
1/22	REFERRED TO BUSINESS & INDUSTRY		
1/22	FIRST READING		

HB 11 INTRODUCED BY PAVLOVICH, ET AL.
REPEALING SUNSET PROVISION FOR
VETERAN'S EMPLOYMENT PREFERENCE

12/27	INTRODUCED		
12/27	REFERRED TO STATE ADMINISTRATION		
12/28	FISCAL NOTE REQUESTED		
1/06	FISCAL NOTE RECEIVED		
1/07	FIRST READING		
1/07	FISCAL NOTE PRINTED		
1/10	HEARING		
1/10	COMMITTEE REPORT—BILL PASSED		
1/14	2ND READING PASSED	93	4
1/16	3RD READING PASSED	95	3
	TRANSMITTED TO SENATE		
1/17	REFERRED TO JUDICIARY		
1/17	FIRST READING		
1/25	HEARING		
1/28	COMMITTEE REPORT—BILL CONCURRED		
1/29	2ND READING CONCURRED	48	1
1/30	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
2/04	SIGNED BY SPEAKER		
2/04	SIGNED BY PRESIDENT		
2/04	TRANSMITTED TO GOVERNOR		
2/07	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 12	EFFECTIVE DATE: 2/07/91	

HB 12 INTRODUCED BY PAVLOVICH, ET AL.
INCREASE SILICOSIS BENEFITS

12/27	INTRODUCED		
12/27	REFERRED TO STATE ADMINISTRATION		
12/28	FISCAL NOTE REQUESTED		
1/06	FISCAL NOTE RECEIVED		
1/07	FIRST READING		
1/07	FISCAL NOTE PRINTED		
1/24	HEARING		
1/24	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/26	2ND READING PASSED	89	0
1/26	TAKEN FROM ENGROSSING AND RE REFERRED TO APPROPRIATIONS		
1/29	REVISED FISCAL NOTE REQUESTED		
1/31	REVISED FISCAL NOTE RECEIVED		
1/31	REVISED FISCAL NOTE PRINTED		
3/19	HEARING		
	DIED IN COMMITTEE		

HB 13 INTRODUCED BY PAVLOVICH
ANNEX OF VETERANS' HOME IN GALEN

12/27	INTRODUCED		
12/27	REFERRED TO APPROPRIATIONS		
12/28	FISCAL NOTE REQUESTED		
1/06	FISCAL NOTE RECEIVED		
1/07	FIRST READING		
1/09	FISCAL NOTE PRINTED		
3/21	HEARING		
	DIED IN COMMITTEE		

HB 14 INTRODUCED BY PECK
PRECIOUS METALS PURCHASED BE HELD
IN DEPOSITORY WITHIN MONTANA
BY REQUEST OF STATE AUDITOR

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By CHAIRMAN BOB BACHINI, on January 10, 1991, at 9:00 A.M.

ROLL CALL

Members Present:
Bob Bachini, Chair (D)
Sheila Rice, Vice-Chair (D)
Joe Barnett (R)
Steve Benedict (R)
Brent Cromley (D)
Tim Dowell (D)
Alvin Ellis, Jr. (R)
Stella Jean Hansen (D)
H.S. "Sonny" Hanson (R)
Tom Kilpatrick (D)
Dick Knox (R)
Don Larson (D)
Scott McCulloch (D)
Bob Pavlovich (D)
John Scott (D)
Don Steppler (D)
Rolph Tunby (R)
Norm Wallin (R)

Staff Present: Paul Verdon, Legislative Council
Jo Lahti, Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HOUSE BILL 14

Presentation and Opening Statement by Sponsor:

REP. RAY PECK, House District 15, Havre, sponsored HB 14 at the request of the State Auditor. HB 14 revises the Securities Act Regulation laws to require that quantities of precious metals purchased under contract and delivered to a depository institution be physically located within the state of Montana at all times after delivery. Because of fraudulent practices of some unscrupulous unregistered dealers, over one million dollars was lost to Montana residents who invested in precious metals commodities. He introduced Robyn J. Young, Deputy Commissioner of

Securities, who represented the State Auditor and the Montana Securities Department.

Proponents' Testimony:

ROBYN J. YOUNG, said HB 14 was requested by the State Auditor's Securities Department because of fraudulent investments in precious metal commodities that cost Montana residents over one million dollars in the last two years. **EXHIBIT 1.** A new subsection (c) has been added to 30-10-105(19) MCA requiring physical storage at all times in a depository in Montana of the precious metals purchased under a leveraged contract. The commodity can be delivered to and stored with the purchaser if the purchase price has been paid in full. The Securities Department does not regulate cash sales. HB 14 has no effect on cash purchasers who receive delivery of the metals. She urged a Do Pass on HB 14.

WILLIAM LEARY, Helena, Montana Bankers Association, said HB 14, is a good piece of legislation that provides some protection to consumers.

Opponents' Testimony: None.

Questions From Committee Members:

REP. KILPATRICK asked if 'precious metals' included diamonds. **Ms. Young** answered yes. It includes a variety of commodities in addition to precious metals - gold, silver, platinum, palladium, copper, coins for the metal content values (not numismatic value). **Paul Verdon** read from 30-10-103 that 'commodity' means any agricultural, grain, or livestock product or byproduct; any metal or mineral including a precious metal or any gem or gem stone, whether characterized as precious, semiprecious, or otherwise; any fuel or liquid gas; foreign currency, and all other goods, articles, products of any kind. The North American Securities administrator started to approach regulating commodity investment contracts. He developed the Model Commodities Act which thirteen states have adopted. Montana was one of the first states to adopt that Act. It has been actively used for enforcement. Minnesota has such an act and has eliminated fraudulent activity by state enforcement of the act.
Many states have the Uniform Security Act. Montana has one of the least organized securities lobbying efforts in the country. California has the highest number of fraudulent firms based in their state. They don't have the Commodity Act. Montana's regulations are way ahead of them.

REP. WALLIN thought there are many legitimate operators handling coins in Montana. Would this bill require them to actually deliver the product to a Montana depository? **Ms. Young** said most dealers in the state generally deal with cash transactions. They deliver the product and the purchaser has access to it. **REP. WALLIN** asked if a person bought $1,000 worth of platinum today,

and only invested $200, are they not entitled to full possession of that metal? Financing of the $800 is an out-of-state concern, and they're not going to be willing to transfer that commodity to Montana. **Ms. Young** said legitimate dealers would have an opportunity to file their disclosure document which would include their lending agreement, their charges and commissions. It would include the spot price of the metals and mark up, and necessary disclosures so that the investors know exactly what they are getting into. If they register that kind of document with the Securities office, and it is not determined that it involves excessive commission or an attempt to work fraud upon the purchaser, it would be registered, similar to other security offerings. Only the metals would have to be stored in Montana. If they did not want to store them in the state with a local company, they could reach an agreement with a qualified depository; it could be a bank or savings and loan or other institution. If it involves a Montana depository, they don't have to register. If it involves an out-of-state depository, they have to comply with registration requirements. That gives the securities office an opportunity to bring enforcement action if necessary.

REP. DOWELL asked if there is any record of the amount of fraud in Montana. **Ms. Young** said they have taken enforcement action during the past year which is a matter of record. The primary firm they took action against was Morgan Whitney Trading Co. out of California for over one million dollars of lost deposits. The deposits came directly from Montana banks' depositors. Investors involved in that case are not named for confidentiality reasons. One person investing $10,000 had no money to pay for any demand deposits. They had a tape recording of fraudulent promises of no loss, otherwise she would have lost her $10,000.

REP. CROMLEY suggested an amendment on page 8, line 14 subsection (C) the 'or' should be changed to 'and'. Also on line 16, following 'purchaser.', strike the '.' insert '; and'.

REP. WALLIN asked how this operated with the futures market. **Ms. Young** explained it does not apply. The futures market is regulated on the Commodity Exchange. If there is a problem between federal and state regulations, the federal supersedes the state board.

REP. HANSEN asked what the difference is between coin collectors and other coins. **Ms. Young** explained the difference is in the value of the metal compared to the numismatic value which is over 15% more than the metal value.

REP. BACHINI said it is not clear where gems are included. **Ms. Young** said gems are included only because they are included in the definition of commodities. If gems are purchased in a deferred payment plan similar to precious metals that meets the definition of commodity, a definite contract must be entered into and that usually must involve deferred delivery and deferred

payment of the deferred portion of the purchase price. Then it would be included. That hasn't been a current problem because there hasn't been much activity in gems in the past 10 years. Should that activity increase, it could become a problem.

Mr. Verdon said subsection (19) says "a transaction involves the purchase of one or more precious metals and;" then it jumps down to (C). There is nothing in subsection (19)(a) that says anything about commodities. This deals with just precious metals, and the precious metal definition does not include gems. **Ms. Young** said that is correct. She was mistaken earlier. First it has to be defined in the investment contract, and for this exemption to apply, it must be an offer for precious metals. There isn't an investment therefore for a contract to purchase a gem as a commodity. There is no exemption for it. Gems would not be included in this. They are included under the Securities Act, but not under this exemption.

REP. KILPATRICK asked if they should be. **Ms. Young** said no since that would be a major change in the Model Commodities Act. They try to be uniform. A legitimate problem in Montana has not arisen to include gems in the Act. She recommends that nothing be done now to include gems.

REP. BARNETT asked if the registration requirements are in compliance if those metals they deal with do not have to be physically in-state. **Ms. Young** answered yes.

REP. TUNBY asked how much protection this would provide. What keeps an unscrupulous outside person from advertising through direct mail or some other way? **Ms. Young** said failure to register with the Securities Department and failing to qualify for exemption is an automatic felony as provided by the Securities Act. As far as the Department is concerned in its investigative efforts, it is called a slam-dunk case because if a dealer made an offer and Department records disclose they are not registered, it is an automatic felony. Proving fraud is more difficult. Unscrupulous dealers are not afraid of violating the fraud laws, but if they violate registration laws, they can be shut down.

REP. STEPPLER asked if under the definition of commodities, agricultural products were included. **Ms. Young** said they are included in the Commodities Act, but in a state like Montana where commodities are produced for sale, a typical transaction between an agricultural enterprise selling its commodities doesn't meet the definition of commodities investment, so it doesn't apply.

REP. KNOX said along the Montana borders, deferred contracts are used to buy and sell agricultural commodities. What would happen if they were buying barley from each other? **Ms. Young** said in this particular section it was pointed out to her this deals only with precious metals. But the investment contract with grain would involve an agricultural producer which is not the intent of

the Commodities Act. There is no intent of the Commodities Act to prohibit free trade of agricultural products. It was the speculation that the Securities Department was addressing.

Closing by Sponsor:

REP. PECK asked Mr. Verdon if this language that appears in the bill is exactly as it was received from the attorneys at the State Auditor's office. Mr. Verdon answered yes, except for the style changes. No substantive changes have been made. In all bills when opened up for changes, modern legislative drafting style changes are made.

REP. CROMLEY said by striking that 'and' it could be interpreted that these three sections, a, b and c are alternatives, basically that any transactions involving the purchase of one or more precious metals be exempt. REP. PECK said he would rather meet the three requirements by striking the 'and'; otherwise it suggests you don't have to meet one. He asked if the council struck the 'and' or did it come over that way. Mr. Verdon said he couldn't answer that question, but no substantive changes were made. REP. PECK said that needed to be clarified to correct the intent. Mr. Verdon thought REP. CROMLEY was correct. The 'and' should be replaced before (c) unless the Department intends to strike the 'and'. REP. PECK asked it be checked, and if necessary, he would propose an amendment on the floor. Ms. Young thought the 'and' after (a) should not be struck.

REP. CROMLEY thought if the 'and' after (a) were struck and an 'and' inserted after subsection (D), that would make for clearer intent.

REP. PECK said this will put the registration requirement on so-called fly-by-night border shop telephone operators, otherwise, it does not hurt anything. He thinks it is necessary and good legislation for the citizens of Montana.

Discussion:

REP. CROMLEY moved to amend page 8.

EXECUTIVE ACTION ON HOUSE BILL 14

Motion: REP. PAVLOVICH moved HB 14 DO PASS.

Discussion:

REP. CROMLEY moved to amend page 8, line 16, strike ".", insert "; and". And amend page 8, line 19, following "in", strike "subsections", insert "subsection". Following (19)(b), strike "(i) and (19)(b)(ii)".

Amendments, Discussion, and Votes:

The proposed amendments were unanimously approved without further discussion.

Recommendation and Vote:

Motion to DO PASS AS AMENDED was adopted unanimously.

ADJOURNMENT

Adjournment: 10:00 a.m.

REP. BOB BACHINI, Chairman

JO LAHTI, Secretary

BB/jl

HOUSE OF REPRESENTATIVES

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL DATE Jan. 10, 1991

NAME	PRESENT	ABSENT	EXCUSED
REP. JOE BARNETT	✓		
REP. STEVE BENEDICT	✓		
REP. BRENT CROMLEY	✓		
REP. TIM DOWELL	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. STELLA JEAN HANSEN	✓		
REP. H.S."SONNY" HANSON	✓		
REP. TOM KILPATRICK	✓		
REP. DICK KNOX	✓		
REP. DON LARSON	✓		
REP. SCOTT MCCULLOCH	✓		
REP. BOB PAVLOVICH	✓		
REP. JOHN SCOTT	✓		
REP. DON STEPPLER	✓		
REP. ROLPH TUNBY	✓		
REP. NORM WALLIN	✓		
REP. SHEILA RICE, VICE-CHAIR	✓		
REP. BOB BACHINI, CHAIRMAN	✓		

FO 3

STANDING COMMITTEE REPORT

January 10, 1991

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 14 (first reading copy -- white) do pass as amended .

Signed: _____
Bob Bachini, Chairman

And, that such amendments read:

1. Page 8, line 16.
Strike: "."
Insert: "; and"

2. Page 8, line 19.
Following: "in"
Strike: "subsections"
Insert: "subsection"
Following: "(19)(b)"
Strike: "(i) and (19)(b)(ii)"

TESTIMONY

EXHIBIT 1
DATE 1-10-91
HB 14

January 10, 1991
House Bill 14
Robyn J. Young
Montana Securities Department

For the record, my name is Robyn Young. I am the Deputy Commissioner of Securities. I am here representing the State Auditor and Montana Securities Department in support of House Bill 14. This bill was requested by the Securities Department to prevent a specific type of securities fraud that has been prevalent in Montana, especially during the past two years.

Last year, Montana residents lost over a million dollars to out-of-state firms offering bank financed precious metals contracts. Salesmen for these firms used high-pressure telephone sales tactics to lure Montana victims into purchasing silver and platinum contracts where the investor paid only 20% of the purchase price as a down payment with the remaining balance financed by an out-of-state bank.

The victims were not told that the metals that they were purchasing would be used to secure a bank loan, and that a decline in the value of the metal could result in the investor being required to deposit additional funds with the bank. If the investor failed to deposit the necessary funds the bank had the authority to sell the metal to insure that the investor's equity remained at the required level. Other material facts that were not disclosed included the excessive commissions or markups paid on the metals prices; the loan fees and interest charges from the bank; and the custodial fees charged by the banks.

1-10-91
HB 14

Section 1

The Legislative Council made stylistic changes to 30-10-105, MCA, "Exempt transactions."

The only substantive change involves 30-10-105(19), MCA. A new subsection (c) has been added that, and I quote, "requires the quantity of precious metals purchased and delivered into the possession of a depository, as provided in subsection (19)(b)(i) and (19)(b)(ii), to be physically located within Montana at all times after the 7-day delivery period provided in subsection (19)(b), and the precious metals are in fact physically located within Montana at all times after that delivery period.

House Bill 14 amends the "exemption from registration" that past fraudulent promoters used to avoid the registration requirements of the Securities Act. 30-10-105(19), MCA, currently provides an exemption from registration for bank financed precious metal contracts where, within seven days after purchase, either the purchaser receives physical delivery of the metals, or the metals are delivered into the possession of a "depository". We have added subsection (c) to require that the precious metals purchased must be physically located within this state at all times subsequent to the seven day delivery period.

It would still be possible for the out-of-state promoters to register in order to sell these contracts in Montana. It is not likely that the fraudulent promoters will want to bother with all of the disclosure involved with our registration requirements. If they do attempt to register, we can use provisions contained in the Securities Act that allow the Commissioner the authority to deny an offering that either "tends to work a fraud upon purchasers", or involves "unreasonable promoter's profits or commissions".

EXHIBIT 1
DATE 1-10-91
HB 14

The perpetrators of past fraudulent securities transactions were unscrupulous out-of-state firms. The Montana Securities Department believes that requiring the metals to be physically located in Montana will prevent questionable firms from victimizing Montana residents. However, regulation must be reasonable and Montana investors will still have the opportunity to enter into these highly speculative leveraged precious metal purchase contracts, with the added protection this bill provides to ensure that those metals are here in state provided a Montana depository is involved to store the metals.

The State Auditor and Montana Securities Department urge a "do pass" on House Bill 14. Thank you for your time and consideration. I would be happy to answer any questions you may have.

RY/me(HB14.tst)

VISITORS' REGISTER

Business & Econ Dev. COMMITTEE

BILL NO. HB 14 DATE Jan. 10, 1991

SPONSOR Rep Peck

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Melissa Leary	Helena - MBA	✓	
Robyn Young	Helena - Sec Dept	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

John Cadby, with the Montana banker's association, spoke in favor of the bill (See Exhibit 1, 1A).

Jim Cowin, first valley bank in Seeley Lake, went on record in support of the bill.

Bob Spannagel, first citizens bank in Billings, went on record in support of the bill.

Larry Moore, stockmen's bank in Cascade, went on record in support of the bill.

Tom Harrison, on behalf of the Montana auto dealers association, stated that they are in favor of the bill and endorse the amendments.

Bob Pyfer, vice president of the Montana credit unions league, spoke in favor of the bill. He stated that this is not a case of the bankruptcy law favoring the debtor, this is not a creditor debtor bill.

Bud Schoen, with the department of justice, motor vehicle division, stated that they are in support of the bill.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Gage stated that every time they get a bill in dealing with motor vehicles, the next session they have bills coming in dealing with the recreational vehicles, snowmobiles, motorbikes, etc. He asked if this bill cover these as well, or will there be a wrap next time.

Bill Leary replied that this bill does not cover those, they were overlooked when the bill was drafted. The next session they will have to correct it by including them. The primary concern are the more expensive motor vehicles, and motor homes which this bill does cover.

Senator Thayer asked if all the proponents agree with the amendment being offered (See Exhibit 1, page 3).

All of the proponents agree on the amendment.

Closing by Sponsor:

Representative Norm Wallin closed by saying that there is a fiscal statement attached.

He then stated if the bill passes, Senator Thayer will carry it.

HEARING ON HOUSE BILL 14

Presentation and Opening Statement by Sponsor:

Representative Dorothy Cody, sponsor of the bill, stated that in the last session of the legislature, HB 326 was passed. This bill exempted paralegals from licensing requirements under

the board of private investigators. In drafting the rules, the board in purpose of complying with section 36-60-101 the word paralegal would be interpreted to mean a paralegal employed by only one law firm. Paralegals employed by more than one firm, at the same time will be required to be licensed under title 17. History: this rule in under advisory only. In the law that was passed last session actually under 1-2-105 singular means plural, but for the board they interpret it to mean singular. This bill would mean that all paralegals would be exempt either private paralegals, contractors, or those who work for a firm.

Proponents' Testimony:

None

Opponents' Testimony:

None

Questions From Committee Members:

None

Closing by Sponsor:

Representative Cody closed by saying that the only way of doing things is fill out specifically when they attach a rule to something what the intentions are. Senator Williams would carry HB 22.

HEARING ON HOUSE BILL 14

Presentation and Opening Statement by Sponsor:

Representative Ray Peck, sponsor of the bill, stated that HB 14 is at the request of the state auditor's and secretary of security's department. This bill would control some of the boiler room telephone operations that sell precious metals in Montana. These operations are generally the high pressure telephone calls that sell silver, platinum, gold, and other precious metals. They will get the Montanan to agree to a fairly low down payment like 20%. They will set up a contract to be carried by an out of state bank, and there would be some excess of commissions involved in the sale. There would be some loan fees and interests that are higher than what they could do in state. The bill only applies only to non-registered out of state promoters. It is a good consumer bill.

Proponents' Testimony:

Robyn Young, deputy commissioner of securities, spoke in favor of the bill (See Exhibit 2).

Bill Leary, representing the Montana bankers association,

stated that they don't envision that they will be loading up on their bank volts with these metals. The bill is well worked out and they support it.

Opponents' Testimony:

None.

Questions From Committee Members:

Senator Gage asked if collectors coins tied in with this at all.

Robyn Young stated that collectors coins are exempt.

Senator Gage asked in the case for instance where a person has borrowed money from a non resident bank, is the bank going to require that the metals stay there.

Robyn Young stated that they would have to file with the securities department and register that contract.

Closing by Sponsor:

Representative Peck closed by saying that this is a relatively simple bill. It is a consumer bill. Senator Lynch has agreed to carry the bill on the floor.

EXECUTIVE ACTION ON HOUSE BILL 14

Motion:

Senator Thayer moved that HB 14 be concurred in.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

HB 14 was concurred in unanimously with Senator Lynch to carry it.

EXECUTIVE ACTION ON HOUSE BILL 22

Motion:

Senator Williams moved that HB 22 be concurred in.

ROLL CALL

Business&Industry COMMITTEE

DATE 2/12/91

____ LEGISLATIVE SESSION ____

NAME	PRESENT	ABSENT	EXCUSED
Senator Bruski	X		
Senator Franklin	X		
Senator Gage	X		
Senator Hager	X		
Senator Noble	X		
Senator Thayer	X		
Senator Williams	X		
Senator Kennedy	X		
Senator Lynch	X		

Each day attach to minutes.

DATE 2/14/91

COMMITTEE ON BUSINESS & INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
JARYLL (BUD) SCHOEN	DOJ - MOTOR VEHICLE DIV.	HB209	✓	
MAXWELL SUDA	SELF	HB22	✓	
SUSAN D. RIBEL	Gough Shanahan Johnson WATER MAN	HB22	✓	
Robyn Young	Securities Dept	HB14	✓	
Bill Leary	MT. Bankers Assn	HB209	✓	
Larry S Moore	Stockmens Bank - Cascade	HB209	✓	
R.N. Swanagel	B.I.I.R.S.	HB209	✓	
JOHN CADBY	MT BANKERS ASSN.	HB209	✓	
Tom Hannon	Mt. auto Dealers	HB209	✓	
Bill Leary	MT. Bankers Assn	HB14		

(Please leave prepared statement with Secretary)

ROLL CALL VOTE

SENATE COMMITTEE Business and Industry

Date 2/12/91 Bill No. HB14 Time 10:00

NAME	YES	NO
Senator Bruski	V	
Senator Franklin	X	
Senator Gage	X	
Senator Hager	X	
Senator Noble	X	
Senator Thayer	X	
Senator Williams	V	
Senator Kennedy	X	
Senator Lynch	V	

Dara Anderson
Secretary

JD Lynch
Chairman

Motion: BE CONCURRED IN

1987

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 2/12/91
BILL NO. HB14

TESTIMONY

February 12, 1991
Senate Business & Industry Committee
House Bill 14
Robyn J. Young, Deputy Securities Commissioner
Montana Securities Department

For the record, my name is Robyn Young. I am the Deputy Commissioner of Securities. I am here representing the State Auditor and Montana Securities Department in support of House Bill 14. This bill was requested by the Securities Department to prevent a specific type of securities fraud that has been prevalent in Montana, especially during the past two years.

Last year, Montana residents lost over a million dollars to out-of-state firms offering bank financed precious metals contracts. Salesmen for these firms used high-pressure telephone sales tactics to lure Montana victims into purchasing silver and platinum contracts where the investor paid only 20% of the purchase price as a down payment with the remaining balance financed by an out-of-state bank.

The victims were not told that the metals that they were purchasing would be used to secure a bank loan, and that a decline in the value of the metal could result in the investor being required to deposit additional funds with the bank. If the investor failed to deposit the necessary funds the bank had the authority to sell the metal to insure that the investor's equity remained at the required level. Other material facts that were not disclosed included the excessive commissions or markups paid on the metals prices; the loan fees and interest charges from the bank; and the custodial fees charged by the banks.

Section 1

The only substantive change involves 30-10-105(19), MCA. A new subsection (c) has been added that, and I quote, "requires the quantity of precious metals purchased and delivered into the possession of a depository, as provided in subsection (19)(b)(i) and (19)(b)(ii), to be physically located within Montana at all times after the 7-day delivery period provided in subsection (19)(b), and the precious metals are in fact physically located within Montana at all times after that delivery period.

House Bill 14 amends the "exemption from registration" that past fraudulent promoters used to avoid the registration requirements of the Securities Act. 30-10-105(19), MCA, currently provides an exemption from registration for bank financed precious metal contracts where, within seven days after purchase, either the purchaser receives physical delivery of the metals, or the metals are delivered into the possession of a "depository". We have added subsection (c) to require that the precious metals purchased must be physically located within this state at all times subsequent to the seven day delivery period.

It would still be possible for the out-of-state promoters to register in order to sell these contracts in Montana. It is not likely that the fraudulent promoters will want to bother with the disclosure involved with our registration requirements. If they do attempt to register, we can use provisions contained in the Securities Act that allow the Commissioner the authority to deny an offering that either "tends to work a fraud upon purchasers", or involves "unreasonable promoter's profits or commissions".

The perpetrators of past fraudulent securities transactions were unscrupulous out-of-state firms. The Montana Securities Department believes that requiring the metals to be physically located in Montana will prevent questionable firms from victimizing Montana

residents. However, regulation must be reasonable and Montana investors will still have the opportunity to enter into these highly speculative leveraged precious metal purchase contracts, with the added protection this bill provides to ensure that a Montana depository is involved to store the metals.

The State Auditor and Montana Securities Department urge a "do pass" on House Bill 14. Thank you for your time and consideration. I would be happy to answer any questions you may have.

RY/mep(HB14.tst)

SENATE STANDING COMMITTEE REPORT

February 12, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 14 (third reading copy -- blue), respectfully report that House Bill No. 14 be concurred in.

Signed: _____
John "J.D." Lynch, Chairman

FB 2-12-91
Amd. Coord.

SB 2/12 11:15
Sec. of Senate